

REMARKS

This response is submitted in response to the Final Office Action mailed April 20, 2004, to request reconsideration of the rejection of claims 1-4 as set forth therein. In the event the Examiner determines that the foregoing amendments do not place the case in condition for allowance, it is respectfully requested that the above amendments be entered to place the claims in better form for consideration on appeal.

In the Official Action, the Examiner rejects claims 1-4 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,594,425 to Ladner et al., (hereinafter "Ladner"). In response, Applicants respectfully traverse the Examiner's rejection under 35 U.S.C. § 102(b) for at least the reasons set forth below. However, independent claim 1 has been amended to clarify its distinguishing features.

As discussed previously, Ladner discloses a locator device (12), which is carried by a person (14). Upon activation of the device by the individual, the locator device transmits the most recently stored position information to a data processor station (18). The only other time that the locator device transmits the position information to the data processor station is upon an interrogation by the data processor station (column 3, lines 12-18). The data processor station compares the position information to a map and sends the information to a responder (20).

Thus, in the device of Ladner, upon activation, the locator device transmits the most recently stored position to the data processor station. The data processor station of Ladner does not store area information and transmit the same to the locator device as is recited in claim 1. In the device recited in claim 1, the data carrier transmits its position to the information unit upon initialization and the information unit transmits area information from a

memory that corresponds to the transmitted position. Thus, the locating device of Ladner does not have "an information unit which is remote from the at least one data carrier for storing area information and transmitting the area information to the at least one data carrier." Claim 3 has similar recitations.

Furthermore, the locator device of Ladner transmits its position information to the data processor station upon an interrogation by the data processor station. As discussed above, the data carrier recited in claim 1 transmits its position to the information unit upon initialization and the information unit transmits back stored area information corresponding to the position. After initialization, the data carrier only transmits its position back to the information unit upon movement of the data carrier from the area. Therefore, the device of Ladner does not transmit "its position to the information unit only in the case of initialization and movement of the at least one data carrier from the area..." as is also recited in claim 1. Claim 3 has similar recitations.

In the Examiner's Response to Applicants previous arguments, the Examiner argues that the features upon which Applicants distinguish the claims over Ladner are recitations of intended use. The Examiner further argues that a recitation of the intended use must result in a structural difference in order to distinguish the claimed invention over the prior art. In response, Applicants respectfully submit that the recitation of the data carrier transmitting its position to the information unit only in the case of initialization and movement of the data carrier from the area results in a structural difference over Ladner. Ladner does not possess a means for a transmission upon such occurrences, whereas claim 1 recites such a means. However, claim 1 has been amended to clarify that the transmitter transmits such position information and now includes a structural difference that is neither

disclosed nor suggested in the Ladner locating device. Amended claim 1 is fully supported in the original disclosure. Therefore, no new matter has been entered into the disclosure by way of the present amendment to claim 1. Furthermore, claim 3 is a method claim that recites steps for performing a similar transmission under similar circumstances. Applicants respectfully submit that no such structural differences need to be recited in a method claim because the method steps recited therein are neither disclosed nor suggested by Ladner.

In the Examiner's Response to Applicants previous arguments, the Examiner further argues that since the locating device of Ladner is capable of tracking movement of the locating device, the locating device must inherently transmit its position to the information unit whenever there is movement of the data carrier from the area.

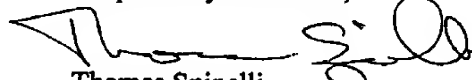
Firstly, Ladner makes no disclosure or suggestion of such a feature. Applicants respectfully request that the Examiner support his arguments either within Ladner or with a showing that such a feature was known in the art.

Secondly, claim 1 recites that the data carrier "transmits its position to the information unit only in the case of initialization and movement of the at least one data carrier from the area..." Thus, there are only two circumstances where the data carrier of claims 1 and 3 transmit its position data, upon initialization and upon movement from the area. Even if it is inherent in Ladner to transmit position data upon movement from an area (which Applicants disagree), Ladner clearly discloses another circumstance where position data is transmitted from the locator device, namely, upon an interrogation from a data processor station. Therefore, Ladner does not disclose or suggest a data carrier that transmits its position information only upon two occurrences, namely, upon initialization and movement from an area.

With regard to the rejection of claims 1-4, under 35 U.S.C. § 102(b), a locating system, having the features described above and as recited in independent claims 1 and 3, is nowhere disclosed in Ladner. Since it has been decided that "anticipation requires the presence in a single prior art reference, disclosure of each and every element of the claimed invention, arranged as in the claim,"¹ independent claims 1 and 3 are not anticipated by Ladner. Accordingly, independent claims 1 and 3 patentably distinguish over Ladner and are allowable. Claims 2 and 4 being dependent upon claims 1 and 3 are thus allowable therewith. Consequently, the Examiner is respectfully requested to withdraw the rejection of claims 1-4 under 35 U.S.C. § 102(b).

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



Thomas Spinelli
Registration No. 39,533

Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City, New York 11530
(516) 742-4343

TS/cm

¹ Lindeman Maschinenfabrik GMBH v. American Hoist and Derrick Company, 730 F.2d 1452, 1458; 221 U.S.P.Q. 481, 485 (Fed. Cir., 1984).